

Application No.: 10/041,946  
Remarks/Argument dated February 8, 2007  
Reply to Office Action of September 8, 2006  
Docket No.: C064

**Remarks/Arguments**

Claims 1-35 are in the application. Claims 1, 6, 11, 14, 18 22, 30, and 33 are in independent form. Claim 35 is added.

**Claim Rejections under 35 USC § 102**

Claims 6, 10, 11, 12, 18, 22, 26, 27-29, 30, 31, 33 and 34 stand rejected under 35 USC 102(e) as anticipated by U.S. Patent No. 6,317,745 to Thomas et al. ("Thomas").

To facilitate understanding the invention and the prior art, applicant first briefly describes an embodiment of the invention and a brief overview of Thomas. Applicant will then point out the specific claim language that differentiates the claims from Thomas.

A typical embodiment of the invention involves five parties: a merchant, a payor, a third party biller, a liquidity source, and a broker. Such embodiments can eliminate the need for a credit card processor, which would reduce a merchant's cost for a transaction. When a payor, such as student, agrees to pay a merchant, such as a university, the payor charges an amount, e.g., a tuition payment, to his account at a third party biller, such as a cell phone provider. The cell phone provider already has in place mechanisms for billing and collecting for its own services from the student. A liquidity source, such as a pooled fund sponsored by multiple universities, transfers to the university an amount equal to the tuition payment minus a service fee, thus making the tuition money available to the university immediately. When the student pays the tuition to his cell phone company as part of his cell phone bill, the payment, minus a billing fee is sent from the cell phone company back to the liquidity source. A broker may be involved to coordinate the transaction and is compensated by a broker fee paid by either involved party. By taking advantage of the existing billing and collection system of the cell phone

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company, the system does not require creating a new billing and collection system. By using a liquidity source, the university is paid immediately.

Thus, funds are transferred to the university from the liquidity source, not from the student, when the transaction is made. The money is collected from the student by the third party biller, who pays back the liquidity source.

In *Thomas*, a third party acts as a data service to protect bank account information, *not* as a party that collects or transfers funds. The funds are transferred from the payor's account to the payee's account. There is no liquidity source. The trusted third party facilitates the transfer of funds between the payor and payee by keeping the bank information secret from each other, but does not provide funds. "It is an object of the present invention to solve the aforementioned problems of prior art systems by providing a method by which the confidential information of a first party be uniquely identified based upon name and address information supplied by a second party without the need for the second party to have access to the confidential information." Col. 3, line 65, to col. 4, line 4.

Claim 6 states: "collecting the transaction amount from the payor by the third party biller." As described above, the third party in *Thomas* does not collect any funds from the payor. For support, the Examiner cites column 4, lines 25-65, which describes a trusted third party that communicates with the home banking system and the bank of the payee. Lines 37-38. The trusted third party receives a "universal identifier number" from the payor, and generates the routing/transit number of the payee's bank and the payee's bank account number (lines 44-50). and then communicates to the payee bank, instructing it to transfer funds to the payee's account from the payor's bank. Lines 50-52. This flow of information and funds is also shown in FIG.

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2A. Thus, the trusted third party of Thomas provides information, but does not collect "the transaction amount from the payor by the third party biller" as claimed in claim 6. Applicant respectfully requests that the anticipation rejection be withdrawn.

Claim 22 also includes a third party biller to "collect the transaction amount from the payor," and is patentable for the reasons described above with respect to claim 6.

Claim 10 is not anticipated for at least the reasons described above with respect to its parent claim 6.

Claims 11 includes "a third party biller different from the source of funds for billing the payor, collecting funds from the payor, and reimbursing the source of funds." As described above with respect to claim 6, the trusted third party in Thomas does not collect funds from the payor, not does it reimburse a source of funds. The Examiner further cites col. 5, lines 35-60, which describes how the trusted third party is an intermediary for data, but does not describe that the third party collects funds.

Claims 12 is not anticipated for at least the reasons described above with respect to its parent claim 11.

Claim 26 is not anticipated for at least the reasons described above with respect to its parent claim 22.

Claim 27 is not anticipated for at least the reasons described above with respect to its parent claim 22. The Examiner cites col. 5, lines 15-55, as teaching a payor agreeing that an amount be billed to a third party. As described above, Thomas shows billing by the payee, not by a third party. See Fig. 2A.

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Claim 18 includes "triggering the selected third party biller to bill the payor." As described above, Thomas shows that the payee bills, not a third party biller, the payor. Moreover, claim 18 states: "liquidity source being repaid by the third party biller." The Examiner states that the "liquidity source" is the payor's bank. Thomas does not teach that the payor's bank is repaid by anyone.

Claim 33 includes "payment of an amount corresponding to the transaction amount to the merchant from a liquidity source that is not the same entity as the third party biller" and is therefore not anticipated for the reasons described above with respect to claim 18 and claim 6.

Claims 28 and 29 are not anticipated for at least the reasons described above with respect to their parent claim 22.

Claim 30 includes states "participating in the transaction includes triggering a third party biller, to bill the payor [and] collect the transaction amount from the payor." As described above with respect to claim 6, Thomas does not teach a third party billing and collecting the transaction amount from the payor.

Claims 31 is not anticipated for at least the reasons described above with respect to its parent claim 22.

Claims 34 is not anticipated for at least the reasons described above with respect to its parent claim 33.

#### **Claim Rejections Under 35 USC § 103**

Claims 1-5, 7-9, 13-17, 19-25 and 32 stand rejected under 35 USC 103(a) as being unpatentable over Thomas in view of U.S. Patent No. 7,082,412 to Treider et al. ("Treider").

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Regarding claim 1, the Examiner states that Thomas teaches "collecting by the third party the transaction amount from the payor." As described above with respect to claim 6, Thomas does not teach "collecting by the third party the transaction amount from the payor." Moreover, the references do not teach "the payors charging utility or other billing accounts serviced by third parties in order to complete the transactions with the merchants."

Claim 5, dependent on claim 1, is patentable for reasons described above with respect to claim 1.

With regard to claims 7-9 and 25, the Examiner again relies on Thomas as the primary references and, as described above with respect to the anticipation rejections, Thomas fails to teach the limitations of parent claims 6 and 22.

Also, neither reference teaches the claim 8 limitation of "coordinating by a broker the flow of information and funds between the payor, the merchant, the third party biller, and the liquidity source," and the Examiner does not cite any passage in the references where this limitation is taught.

Similarly, neither reference teaches the claim 9 and 25 limitation of "providing funds from a mutual fund," and no citation is provided.

Claims 13 is patentable for reasons described above with respect to parent claim 11.

Regarding claims 14-17, the Examiner states, without providing a citation, that Thomas teaches accepting money to be pooled into a fund. Applicant does not find such teaching in Thomas and respectfully request the Examiner to point out the relevant passage.

Regarding claim 19, applicant submits that claim 19 is patentable for reasons described above with respect to parent claim 18.

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Regarding claims 20 and 24, applicant submits that claims 20 and 24 are patentable for reasons described above with respect to parent claims 18 and 22, respectively.

Regarding claims 21 and 23, applicant submits that claims 21 and 23 are patentable for reasons described above with respect to parent claims 18 and 22, respectively.

Applicant submits that all claims in the application are now in condition for allowance, and Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

Date: February 8, 2007

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